

**FILED**

**NOV 23 2015**

**SECRETARY, BOARD OF  
OIL, GAS & MINING**

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Attorney for Respondent Atkinson-Leavitt Insurance Agency, Inc.

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**BEFORE THE UTAH BOARD OF OIL, GAS AND MINING**

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<i>In the matter of:</i> Reclamation at the BMC	)	
Seep's Ridge Road Pit Mine, Permit No.	)	
S/047/0119, Operated by Blue Mountain	)	RESPONSE TO NOTICE OF
Crushing, LLC, located in the Uintah and	)	AGENCY ACTION
Ouray Reservation in southeastern	)	Docket No. 2015-029
Uintah County, Utah	)	Cause No. S/047/0119
	)	

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Respondent, Atkinson-Leavitt Insurance Agency, Inc. ("Atkinson"), by and through its attorney of record, Michael L. Chidester, hereby submits its Response to Notice of Agency Action in this matter.

**ARGUMENT**

As is clear from the Allegations set forth in the Notice of Agency Action filed in this matter by the Utah Division of Oil, Gas and Mining (the "Division"), Atkinson acted as the agent for the Respondent Fidelity and Deposit Company of Maryland ("Fidelity") in writing and placing the reclamation surety bond for Blue Mountain Crushing ("BMC") Seep's Ridge Road pit mine (the "Mine"). See paragraph 10 of the Allegations in the Notice of Agency Action. As the agent for Fidelity, Atkinson did not assume any obligations or liability under the surety bond, and was not a party to the bond agreement.

The Division has alleged that Fidelity remains liable for disturbance that existed at the Mine as of the cancellation date of the surety bond. *See* paragraph 12 of the Allegations in the Notice of Agency Action. The Division has not alleged that Atkinson is in any way liable for disturbance at the Mine.

The Division has alleged that Fidelity has failed to reclaim the site or to provide funds to the Division for it to reclaim the site. *See* paragraph 25 of the Allegations in the Notice of Agency Action. The Division has not alleged that Atkinson has in any way failed in its obligations.

As the agent for Fidelity, Atkinson represented Fidelity in writing and placing the surety bond in this matter. However, Atkinson has no obligations or liability under the bond. Atkinson is not a party to the bond agreement, and never agreed to, and never did, act as surety. None of the relief requested by the Division is requested of Atkinson, and Atkinson is not liable under any theory to provide such relief. Accordingly, the Board should dismiss Atkinson as a Respondent in this proceeding.

### **REQUEST FOR RELIEF**

Based on the foregoing Argument, and the Allegations set forth in the Notice of Agency Action, Atkinson requests that the Board grant Atkinson the following relief:

1. For an Order dismissing Atkinson as a party to this proceeding; and
2. For such other and further relief as the Board deems just and proper.

DATED this 20<sup>th</sup> day of November, 2015.



MICHAEL L. CHIDESTER

Attorney for Respondent Atkinson-Leavitt  
Insurance Agency, Inc.

**CERTIFICATE OF MAILING**

I hereby certify that I caused to be served, in the manner indicated below, the above RESPONSE TO NOTICE OF AGENCY ACTION, to the following parties on the 20<sup>th</sup> day of November 2015:

*By email:*

Steven F. Alder  
John Robinson, Jr.  
Melissa L. Reynolds  
Asst. Attorneys General  
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*By Certified Mail:*

Alek Cusick  
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505 North 1500 West  
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*By Certified Mail:*

Grimmer and Associates, PC  
RA for Blue Mountain Crushing  
2975 West Executive Parkway, Suite 192  
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*By Certified Mail:*

Fidelity and Deposit Company of  
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1400 American Lane  
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*By Certified Mail:*

Corporate Agent Services, LLC  
RA for Blue Mountain Crushing  
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